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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,251	03/12/2004	Peter T. Barrett	MSI-1757US	8848
22801	7590	01/11/2008	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			STANLEY, MARK P	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/800,251

Applicant(s)

BARRETT ET AL.

Examiner

MARK P. STANLEY

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4157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/5/2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-850)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date 12/12/05, 3/12/04, 11/5/2007

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Horn et al. (US 2002/0107968 A1 hereinafter Horn).

Regarding claim 1, Horn discloses “a system comprising:

a plurality of schedulers including a scheduler that is associated with a client and responsible for servicing a media data stream being sent to the client” ([0065]-[0068], [0074]-[0078], where each item 102 MOD server has items 214 and 216 schedulers for servicing media to item 104 the clients and where item 125 the administrative server also has a scheduler for handling send requests communicating with the MOD servers), “the scheduler adapted to formulate a send request that designates the client as a destination for a media data portion of the media data stream; and” ([0074]-[0078], Figs. 1-2, where requests for item 201 the media blocks or item 205 media streams is handled and encoded as determined by items 214 and 216 the schedulers and then transmitted to the client)

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"a plurality of senders including a sender that is associated with media data including the media data portion, the sender adapted to send the media data portion to the client in response to the send request" ([0079], Figs. 1-2, where each item 102 MOD server has item 240 for sending the media across item 108 the network to item 104 the clients).

Regarding claim 2, Horn discloses "the system as recited in claim 1, further comprising:

"mass storage of media data;" ([0068], Figs. 1, items 108, 115)

wherein the sender is further adapted to acquire portions of the media data that is associated with the sender from the mass storage of media data" ([0076], [0079], Fig. 2, item 240 acquires item 201 the media from the mass storage and sent as determined by the scheduler).

Regarding claim 3, Horn discloses "the system as recited in claim 1, wherein the scheduler and the sender are functioning on a single device" (Fig. 2, items 214, 216, and 240 are on the same device).

Regarding claim 4, Horn discloses "the system as recited in claim 1, wherein the scheduler is functioning on a first device, and the sender is functioning on a second device" ([0077], item 125 the administrative server has the ability to perform the operations of the schedulers on each MOD server when communicating with the MOD server which contains item 240 for sending the

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data, where the administrative server is the first device, and the MOD server is the second device).

Regarding claim 5, Horn discloses “the system as recited in claim 4, further comprising:

a switch that is coupled to the second device and to the client via a network”; ([0065], [0071], it is inherent that when using a network with multiple paths when transmitting the data from the MOD server over the network to a client, a switch must be used)

“wherein the sender is further adapted to send the media data portion to the client via the switch over the network without routing the media data portion through the first device” (Fig. 1, where item 125 the first device communicates with item 102 the second device, items 108 and 115 the media data are not routed through the first device but straight through item 102 the second device).

Regarding claim 6, Horn discloses “the system as recited in claim 4, further comprising:

a first switch that is coupled to the second device and to the client; and
a second switch that is coupled to the first device;

wherein the sender is further adapted to send the media data portion to the client via the first switch, and the scheduler is further adapted to transmit the send request to the sender via the second switch” ([0065], [0071], it is inherent that when using a network with multiple paths when transmitting the data from

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the MOD server over the network to a client and from the administrative server to multiple MOD servers, switches must be used).

Regarding claim 7, Horn discloses “the system as recited in claim 4, wherein another scheduler is functioning on the second device, and another sender is functioning on the first device; and wherein the other scheduler is associated with another client, and the other sender is associated with other media data” ([0074], each sender of each MOD server has the ability serve a separate portion or entire different block of media data to the same or different clients).

Regarding claim 8, Horn discloses “the system as recited in claim 1, wherein the media data stream corresponds to a media data segment that is stored by the system, and wherein the sender is functioning on a first device;” ([0074], Fig. 1, where each MOD server has a sender)

“wherein the plurality of senders further include another sender that is functioning on a second device, the other sender associated with other media data including another media data portion; and” ([0074], each MOD server has the ability serve a separate portion of the media data, where the number of MOD servers varies, 102(1) would be the first device and 102(2) would be the second device)

“wherein the media data portion and the other media data portion are both parts of the media data segment” ([0074]).

Regarding claim 9, Horn discloses “the system as recited in claim 8, wherein the scheduler is further adapted to formulate another send request that designates the client as a destination for the other media data portion of the media data stream; and

wherein the other sender is further adapted to send the other media data portion to the client in response to the other send request” ([0074]-[0075], where multiple servers have the ability for sending the same or other portions if a current server is unable to do so).

Regarding claim 10, Horn discloses “the system as recited in claim 1, further comprising:”

“a plurality of devices;” ([0074], Fig. 1, item 102 the MOD servers)

“wherein respective senders of the plurality of senders are functioning on respective devices of the plurality of devices, and respective devices are storing respective media data portions to which respective senders are respectively associated and adapted to send to clients” ([0074], Fig. 1, each MOD server has a sender, where the media data must be stored on the server at some point for encoding before the sender can transmit the media data to the client).

Regarding claim 11, Horn discloses “a system comprising:

a first device having a first sender that is adapted to store a first media data block of a media data segment and to send the first media data block to

clients responsive to send requests;" ([0074], Fig. 1, each MOD server has a sender, where the media data must be stored on the server at some point for encoding before the sender can transmit the media data to the client)

"a second device having a second sender that is adapted to store a second media data block of the media data segment and to send the second media data block to clients responsive to send requests; and" ([0074]-[0075], where multiple MOD servers have the ability for sending the same or other portions of the media data)

"a scheduler that is adapted to transmit to the first sender a first send request that designates a destination client and stipulates the first media data block and to transmit to the second sender a second send request that designates the destination client and stipulates the second media data block" ([0074], [0077], item 125 the administrative server has the ability to perform the operations of the schedulers on each MOD server when communicating with the MOD servers which contains item 240 for sending the data).

Regarding claim 12, Horn discloses "The system as recited in claim 11, wherein the first media data block is stored at the first device in random access memory (RAM) thereof, and the second media data block is stored at the second device in RAM thereof" ([0074], Fig. 1, each MOD server has a sender, where the media data must be stored on the server at some point for encoding before the sender can transmit the media data to the client, where it is inherent some

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form of random access memory must be used in order to store and process the media data while encoding and preparing for transmission in the server).

Regarding claim 13, Horn discloses “the system as recited in claim 11, wherein the scheduler is functioning on at least one of the first device, the second device, or a third device” ([0074], [0077], Fig. 1, item 125 where the scheduler is functioning on the administrative server, a third device).

Regarding claim 14, Horn discloses “the system as recited in claim 11, wherein the first sender is further adapted to send the first media data block to the destination client without directing the first media data block through a device on which the scheduler is functioning” (Fig. 1, where item 125 the first device communicates with item 102 the second device, items 108 and 115 the media data are not routed through the first device but straight through item 102 the second device).

Regarding claim 15, Horn discloses “the system as recited in claim 11, wherein the first sender is further adapted to send the first media data block to the destination client with a packet having a destination address comprising a network address of the destination client” ([0065], [0071], where it is inherent that the packet must contain proper routing information to reach the destination).

Regarding claim 16, Horn discloses "the system as recited in claim 11, further comprising:

another scheduler that is adapted to transmit to the first sender a third send request that designates another destination client and stipulates the first media data block and to transmit to the second sender a fourth send request that designates the other destination client and stipulates the second media data block" ([0067], [0074], [0077], where the number of administrative servers is not limited to one, where a administrative server will contain a scheduler for handling the sending of media data in portions where each MOD server handles the sending of a different portion).

Regarding claims 17-20, the claims have been analyzed and rejected for the reasoning as claim 11 above; where it is inherent a processor must be used for performing the operations, where the administrative server is the first device and the MOD servers are the corresponding sending devices.

Regarding claims 21-22, the claims have been analyzed and rejected for the reasoning as claim 11 above; where it is inherent a processor must be used for performing the operations, where another administrative server ([0067], [0074], [0077], the number of administrative servers with schedulers is not limited to one) is the third device and the MOD servers are the corresponding sending devices.

Regarding claims 23-26, the claims have been analyzed and rejected for the reasoning as claim 11 above; where it is inherent a processor must be used for performing the operations, where the media data is provided upon request by the client ([0065]-[0069], Fig. 1 item 104).

Regarding claims 27-28, the claims have been analyzed and rejected for the reasoning as claim 12 above; where it is inherent a processor must be used for performing the operations.

Regarding claim 29, the claims has been analyzed and rejected for the reasoning as claim 11 above; where it is inherent a processor must be used for performing the operations, where the number of storage media is not limited to one ([0068]).

Regarding claims 30-33, the claims have been analyzed and rejected for the reasoning as claim 11 above; where it is inherent the media data must be stored during encoding and preparing for transmission in the MOD server.

Regarding claim 34, the claim has been analyzed and rejected for the reasoning as claim 29 above.

Regarding claim 35, the claim has been analyzed and rejected for the reasoning as claim 11 above, where the media data is provided upon request by the client ([0065]-[0069], Fig. 1 item 104).

Regarding claim 36, the claims have been analyzed and rejected for the reasoning as claim 11 above; where it is inherent a processor must be used for performing the operations.

Regarding claim 37, the claims have been analyzed and rejected for the reasoning as claim 11 above; where it is inherent a processor must be used for performing the operations, where the media data is not required to be routed through the device of the scheduler.

Regarding claim 38-39, the claims have been analyzed and rejected for the reasoning as claim 11 above; where it is inherent a processor must be used for performing the operations, where the schedulers are not limited to being on the administrative server, and schedulers are available on each MOD server for handling the scheduling of the corresponding MOD server ([0065]-[0068], [0074]-[0078]).

Regarding claim 40, the claims have been analyzed and rejected for the reasoning as claim 11 above; where it is inherent a processor must be used for performing the operations.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Chen et al. (US 7,039,784 B1) – dynamically balancing the loading of data storage at a server system and transferring of data from server system to client

Contact

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK P. STANLEY whose telephone number is (571)270-3757. The examiner can normally be reached on 8:00AM - 5:00PM Mon-Fri EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vu Le can be reached on (571) 272-7332. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark P Stanley/

/ABUL K. AZAD/
Primary Examiner, Art Unit 2626